

JUNE 25, 1973

Chalmers M. Roberts

Post 6/25/73

The Reliability of Witnesses: Notes From the Hiss Case

It will be 25 years in August since freshman Rep. Richard Nixon began his association with the case that, as he wrote in "Six Crises," first brought him "national fame," and thus propelled him into a Senate seat, the vice presidency and, finally, the presidency. Rereading the "The Hiss Case," the first of Mr. Nixon's six crises, is especially illuminating today as the nation awaits John Dean's televised testimony at a critical point in Mr. Nixon's latest, and perhaps most profound, crisis.

"Six Crises" is illuminating for what it has to say about the relative reliability of witnesses, who for one reason or another, would seem, on the face of it, to be less than reliable. In Mr. Nixon's first crisis, the witness in question was Whittaker Chambers, whose background as a Communist and a spy against the United States did not exactly recommend him as the most dependable of men; yet Rep. Nixon relied heavily upon Chambers to make the case against Alger Hiss. Today the supporters of President Nixon are actively seeking to destroy the credibility of John Dean, whose own tangled complicity in the Watergate crimes is said by some to disqualify him from consideration as a trustworthy witness against the President.

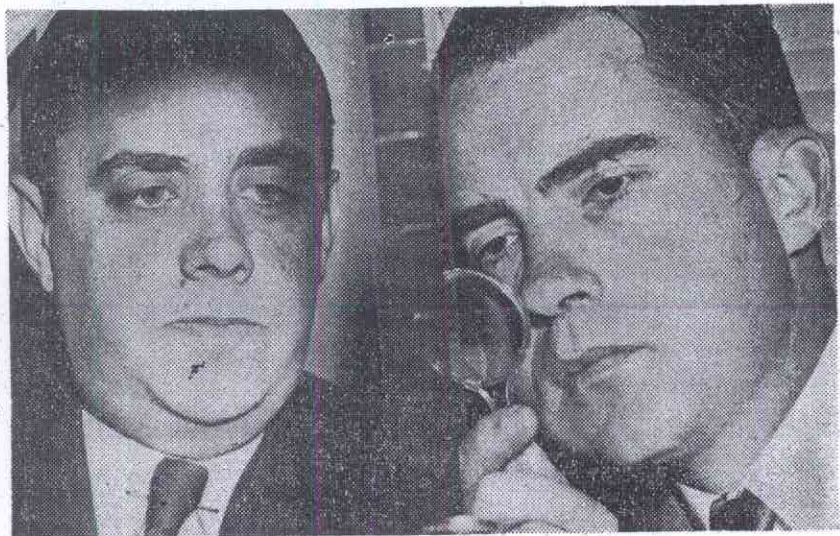
Like most analogies, this one is far from exact. But both the similarities as well as the differences in the two cases — and the two crises — are at least historically interesting.

In his book, Mr. Nixon wrote that, after the House Un-American Activi-



Alger Hiss in 1948 (above); Whittaker Chambers testifying; and HUAC investigator Robert Stripling and then Rep. Richard Nixon viewing films of State Department documents.

Associated Press Photos



ties Committee's initial confrontation between Whittaker Chambers and Alger Hiss, all the members but he wanted to abandon the case. Committee investigator Robert Stripling "made one very telling argument in support of my position," he recounted. "He reported that before and during the hearing, a calculated whispering campaign had been initiated against Chambers. The rumors were that he was an alcoholic, that he had been in a mental institution, that he was paranoid. . . ." Mr. Nixon was named to head a subcommittee and the case went forward.

When Hiss challenged Chambers' veracity, another member of the committee, Rep. Edward Hebert (today chairman of the House Armed Services Committee), as Mr. Nixon recounted it, "fired back," saying: "The fact that Mr. Chambers is a self-confessed traitor . . . and a self-confessed former member of the Communist Party—has no bearing at all on the alleged facts that he has told . . . We have to have people like Chambers to come in and tell us. . . I don't care who gives the facts to me, whether a confessed liar, thief or murderer—if it is facts." Mr. Nixon commented that now "Hiss had a bear by the tail."

Mr. Nixon himself questioned Chambers, at one point asking (in a manner now repeated by Sen. Howard Baker with earlier witnesses): "Mr. Chambers, can you search your memory now to see what motive you can have for accusing Mr. Hiss of being a Communist at the present time?" and "Is there any grudge you have against Mr. Hiss over anything he has done to you?" Chambers' response was that "I do not hate Mr. Hiss. We were close friends, but we are caught in a tragedy of history. Mr. Hiss represents the concealed enemy against which we are all fighting, and I am fighting. I have testified against him with remorse and pity, but in a moment of history in which the nation now stands, so help me God, I could not do otherwise."

Mr. Nixon commented in his book that "the tide of public opinion which had run so high in favor of Hiss just three weeks before had now turned against him. Critics who had condemned the Committee for putting Chambers on the stand now congratulated us for our perseverance in digging out the truth."

Later Mr. Nixon learned that some Justice Department attorneys (under President Harry Truman) were advocating indictment of Chambers for perjury, a move that Mr. Nixon acknowledged "would be a technically valid indictment." He headed it off by a public charge that if Chambers were indicted, Hiss would go free, adding: "The Administration is trying to silence this committee. But we will not entrust to the Justice Department and to the Administration the sole responsibility for protecting the national security in this case. . . ."

The next week Hiss was confronted before a grand jury with FBI testimony that letters written by Mrs. Hiss matched the typeface on documents produced by Chambers. Mr. Nixon then wrote:

"Grand Jury proceedings are, of course, secret. But reports leaked out as to what happened when the prosecutor asked Hiss for an explanation. He said: 'Until the day I die, I shall wonder how Whittaker Chambers got into my house to use my typewriter.' A ripple of laughter went through the jury room."

Mr. Nixon, in reflecting on President Truman's conduct during the Hiss case, wrote that it was "particularly hard to understand. . . . One can understand why he might have felt justified in terming the case a 'red herring' when Hiss first testified before the Committee. But he did a disservice to the nation and to his own party by stubbornly maintaining that position, as evidence to the contrary piled up. His error was sheer stubbornness in refusing to admit a mistake. He viewed the Hiss case only in

its political implications and he chose to handle the crisis which faced his Administration with an outworn political rule of thumb: leave the political skeletons hidden in the closet and keep the door locked. . . ."

John Dean is not Whittaker Chambers. But Dean, like Chambers, has been under attack by Nixon supporters in an evident effort to discount, at the least, his expected testimony. GOP Senate leader Hugh Scott has called Dean both a "turncoat" and an "embezzler." The Senate select committee, however, is applying the same rule Rep. Nixon urged his committee to take, as indicated by his own statement and the quotation of Rep. Herbert: the point is to pursue the facts, whether the witnesses are confessed perjurers or merely trying to save themselves from jail.

A quarter century ago it was a freshman congressman fighting to turn public opinion to his side of the Hiss case; for that purpose Chambers was a valued witness. Today it is President Nixon, through his staff and such ex-associates as H. R. Haldemann and John Ehrlichman, who is trying to do the same thing in the Watergate affair; for his present purpose, however, Dean is an entirely untrustworthy witness. The circumstances may be vastly different but some of the same principles are involved — with Mr. Nixon on the other side of the fence.

The Hiss case seems long ago, now. Perhaps more pertinent today, as we await what Dean will say and what others will say about what Dean does say, are some words from Mr. Nixon's new preface to "Six Crises," written after he won the 1968 Republican nomination for President:

"My own attitude toward crisis is best expressed in the way the word 'crisis' is written in the Chinese language. Two characters are combined to form the word: One brush stroke stands for 'danger' and the other character stands for 'opportunity.'"